

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

UNITED STATES OF AMERICA,

v.

JOHN A. MORGAN,  
*Defendant.*

No. 3:18-cv-1647 (JAM)

**ORDER RE APPOINTMENT OF A RECEIVER**

WHEREAS, the plaintiff United States of America filed this action to enforce federal tax liens associated with defendant John A. Morgan’s unpaid federal income tax liabilities against the subject ownership interests in Caritas Investment, L.P. and Morgan 2000, LLC (collectively “the Entities”);

WHEREAS Caritas Investment, L.P. (“Caritas” or “the Partnership”) owns valuable real property known as 140 Wallacks Drive in the City of Stamford, Connecticut (“the Real Property”) which is the Partnership’s only valuable asset;

WHEREAS Mr. Morgan owns 99% of Caritas as a limited partner and the other 1% is owned by the general partner, Morgan 2000, LLC, which is, in turn, owned 100% by Mr. Morgan;

WHEREAS the Real Property is subject to liens of the City of Stamford for property tax liabilities totaling almost \$340,000 as of November 2020 and then to a first mortgage lien in favor of Bank of America, N.A. (the “Bank”), on which the outstanding balance is over \$5 million, and the Bank has a foreclosure action in this Court (Civil No. 3:15-cv-01467), and the Court is informed that the City of Stamford and the Bank do not oppose the United States’ motion for appointment of a receiver (“Receiver”), and the United States has further informed the Court that the United States acknowledges and agrees that the City of Stamford and the

Bank's liens against the Real Property have priority over the United States' liens against the Real Property;

WHEREAS, on August 10, 2020, this Court entered an opinion and order granting partial summary judgment in favor of the United States of America, and entering judgment as to Mr. Morgan's federal income tax liabilities for 2010, 2011, 2013, and 2014 in the total amount of \$676,159.32, plus statutory additions from and after March 9, 2020, including interest pursuant to 26 U.S.C. §§ 6601, 6621, 6622, and 28 U.S.C. § 1961(c), with the understanding that the sum (\$676,159.32) includes an over-assessment (credit) of \$2,174.18 for year 2010 that will be credited against the judgment amount owed as of January 7, 2019;

WHEREAS, on August 5, 2021, this Court entered an opinion and order granting summary judgment in favor of the United States of America and entering a judgment that the federal tax liens for the years 2011, 2013, and 2014 attached to Mr. Morgan's ownership interests in Caritas and Morgan 2000, LLC, upon assessment, and further determining that the United States is entitled to enforce its liens through the appointment of a Receiver pursuant to 26 U.S.C. § 7402(a) to take control of Mr. Morgan's ownership interests in Caritas and Morgan 2000, LLC, for the purpose of causing the Partnership to sell the Real Property owned by the Partnership, fully pay the real property tax arrearage and the mortgage debt of the Bank, and deposit the remaining proceeds into the registry of this Court;

WHEREAS Mr. Morgan, after notice and an opportunity to be heard, has not shown sufficient reason to deny or further delay the appointment of a receiver;

IT IS THEREFORE ORDERED THAT

1. By **September 3, 2021**, the United States shall file a motion seeking approval of its designation of a receiver for the purpose of assisting in the enforcement of the United States'

federal tax liens associated with the federal income tax debts of defendant Mr. Morgan for taxable years 2011, 2013, and 2014 by (a) taking control of the Entities and their assets, including, but not limited to, the Real Property, (b) arranging for the sale of the Real Property in the manner best suited to generate the largest amount of liquid assets, as described further below, (c) after payment of the Receiver's compensation, as set forth below, satisfying the real property taxes and the mortgage debt of the Bank and depositing the remaining proceeds in the registry of this Court for any further adjudication of the claims of the United States and any other creditors of Mr. Morgan or the Partnership, and ultimately for distribution to the United States and/or any other creditors (unless a future order of this Court approving a purchase contract and sale determines the distribution of the remaining proceeds).

2. After taking control of the Entities, the Receiver shall have the authority to arrange for the sale of the Real Property through an appropriate purchase agreement, subject to approval by this Court, in any manner approved by the United States, the City of Stamford, and the Bank. The terms of the purchase shall include the balance of the purchase price paid in cash at closing, and shall include an earnest money deposit, in an amount to be approved by the United States and the Bank, forfeitable upon the purchaser's failure to perform, and as liquidated damages. Any such forfeited deposit shall be added to the proceeds of a later sale unless another use of the funds is theretofore approved by the Court, except that any such forfeited deposit may be used to pay part of the property tax arrearage without further Court order if the United States, the City of Stamford, and the Bank so instruct the Receiver.

3. The closing for the Real Property shall not occur until after the purchase contract and proposed sale of the Real Property has been approved by further order of this Court. The United States, the City of Stamford, the Bank, the Entities, or Mr. Morgan may file a motion for

the approval of any purchase contract; the Receiver is not required to file such a motion and instead may advise and supply any appropriate sworn declaration to the party submitting such a motion. At closing, the purchaser or purchasers shall receive a Receiver's deed to such purchased parcel executed by the Receiver and sale and title shall be free and clear of all liens and claims of the parties to this action, and without any right of redemption, and free and clear of all liens and claims of the Bank solely in the event that proceeds of the sale are sufficient to pay the entire amount of the Partnership's obligations to the Bank pursuant to the loan documents at the time of such sale.

4. Unless the exception described in Paragraph 5, below, applies, all persons occupying the Real Property shall vacate the Real Property within 30 days of the date of a future order of the Court granting and approving the motion of the United States for designation of the Receiver, each taking with them his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the property, including hard-wired lighting fixtures or ceiling fans and all major appliances such as washing machine, clothes dryer, dishwasher, stove, built-in microwave, and refrigerator). If any person fails or refuses to vacate the Real Property by the date specified in this Order, the Receiver will be authorized, with the assistance of counsel for the United States, to coordinate with the United States Marshals Service to take all actions that are reasonably necessary to have those persons ejected. The United States Marshals Service is authorized and directed to take any and all necessary actions, including but not limited to the use of reasonable force, to enter and remain on the premises, which includes, but is not limited to, the land, buildings, vehicles, and any other structures located thereon, for the purpose of executing this Order. The United States Marshals Service is further authorized and directed to arrest and/or evict from the premises any and all persons who obstruct, attempt to obstruct, or

interfere or attempt to interfere, in any way, with the execution of this Order.

5. The obligation to vacate the Real Property within 30 days of a future order of the Court granting and approving the motion of the United States for designation of the Receiver as set forth in Paragraph 4, above, shall not apply only if: (A) Defendant Mr. Morgan agrees to and pays rent to the Receiver in the amount of \$10,000 per month so that it is received on or before the first day of the month, and the first rent payment shall be in the amount of \$20,000 (for two months' rent paid within 30 days of the date of a future order approving the designation of the Receiver, so that the Receiver is always ahead by at least one month in the event of unexpected out-of-pocket expenses or in the event that rent is not paid and Defendant Mr. Morgan or his spouse fail to vacate timely, with the Receiver to refund rent for any period after Defendant Mr. Morgan vacates the premises provided he either gives 15 days' notice of intent to vacate or vacates in accordance with subparagraph G of this paragraph); (B) the premises are kept clean and maintained in a manner acceptable to the Receiver so that the Receiver is able to show the Real Property to prospective buyers; (C) the Real Property is permitted to be shown to prospective buyers at all reasonable times of day, when all persons occupying the premises may need to leave for a short period of time, provided that the Receiver gives Defendant Mr. Morgan four hours' advance notice of any showing (not counting hours between 8 p.m. and 8 a.m.); (D) Defendant Mr. Morgan pays, timely and in full, all utilities associated with the Real Property; (E) Defendant Mr. Morgan maintains the exterior and interior of the Real Property to the satisfaction of the Receiver (and payment of all associated maintenance expenses shall be responsibility of Defendant Mr. Morgan unless the United States agree and the Bank agree in writing that rents paid by Defendant Mr. Morgan may be used by the Receiver to pay for particular expenses); (F) Defendant Mr. Morgan maintains hazard insurance covering the Real Property, with such

insurance naming the Bank as an additional insured, as mortgagee, and as loss payee; and (G) all persons occupying the Real Property agree to and shall vacate the Real Property and remove their personal property on or before seven days before the date of the sale closing which may be on not less than 28 days' notice to Mr. Morgan. In the event that any requirement set forth in (A)-(F) is not satisfied, then Paragraph 4 shall apply in full. In the event that, prior to the entry of this Order, Caritas has entered into any agreement with another person or persons to occupy the premises for rent, the foregoing provisions shall be applicable to any such lessees except that the amount of rent shall be the amount set forth in the agreement between Caritas and the lessee(s), and any such rental arrangement will remain subject to the assignment of rent provisions in Caritas's loan documents with the Bank. Regardless of any term of any such lease, the lessees shall not be entitled to remain in possession unless they agree to comply with the substance of subparagraphs (B), (C), (D), (E), and (G) of this paragraph. Any such lessee has a right to file a motion in this case for relief from the foregoing and demonstrate cause as to why this paragraph should not be enforced against the lessee. Any rents paid to the Receiver under this paragraph may be used as directed by the agreement of the United States, the City of Stamford, and the Bank. Otherwise any rents shall be held by the Receiver pending further order of the Court and without prejudice to the respective claims of the United States, the City of Stamford, and the Bank.

6. Except as provided in paragraph 5(G), any personal property remaining on the Real Property 30 days after the date of a future order of the Court granting and approving the motion of the United States for designation of the Receiver is deemed forfeited and abandoned, and the United States, the Receiver, the United States Marshals, or their agents are authorized to dispose of the personal property in any manner they see fit, including sale, in which case the

proceeds of the sale are to be applied first to the costs and expenses of sale and the balance shall be held in escrow in a manner consistent with private sales pending distribution pursuant to further order of this Court.

7. John A. Morgan and all persons associated with him, including his spouse (together, “the Morgans”), shall neither do anything that tends to reduce the value or marketability of the Property nor cause or permit anyone else to do so. The Morgans shall not record any instruments, publish any notice, or take any other action (such as running newspaper advertisements, posting signs, or making internet postings) that may directly or indirectly tend to adversely affect the value of the Real Property or that may tend to deter or discourage potential bidders from making offers, nor shall they cause or permit anyone else to do so. Violation of this paragraph (or any other provision of this Order) may be deemed a contempt of court and punishable as such.

8. The Receiver shall have all of the rights and powers necessary to fulfill the Receiver’s obligations under this Order, specifically including, but not necessarily limited to, the power to retain the services of a locksmith in order to gain access into and to secure the Real Property (unless Defendant Mr. Morgan elects to pay rent and remain in possession pending sale in accordance with paragraph 5 above), and to take any action reasonably necessary to protect and preserve the value of the Real Property prior to sale, and to put the Real Property into saleable condition, including making expenditures of funds that are first approved by the United States, the City of Stamford, and the Bank for reasonable and necessary maintenance and minor improvements. Any funds advanced by the Receiver, and previously approved by the United States, the City of Stamford, and the Bank, for any of the purposes of protecting or preserving the value of the Real Property shall be reimbursed from the proceeds of the sale with priority

over all liens or other claims unless paid from rents or forfeited earnest money deposits. The Receiver shall be permitted to add a lockbox to the Real Property for other agents to show the Real Property to prospective buyers (at the Receiver's own expense) during periods in which the Morgans are notified to temporarily leave as provided above if Mr. Morgan determines to pay rent and remain in possession. The Receiver is authorized to advertise the Property for sale (at the Receiver's expense) in any manner indicated by the Receiver's experience and business judgment. The Receiver is authorized to create a video of the interior as well as the exterior of the Real Property for such purposes.

9. The Receiver shall, in consultation with the United States, the City of Stamford, and the Bank, set an initial listing price for the Real Property, and may reduce the listing price as necessary in the Receiver's judgment or at the request of the United States, the City of Stamford, and the Bank so long as the Real Property is never listed or sold for an amount less than the entire indebtedness owed by the Partnership to the Bank plus closing costs and expenses (including the Receiver's fee set forth in paragraph 11 herein). In this regard, the Receiver is hereby authorized to use the Receiver's business judgment in respect to the value of the Real Property in proposing a listing price or any reductions without regard to whether the Receiver is certified by any regulatory authority to opine on the values of properties or properties in the relevant locality. Upon selecting an initial listing price and also if the Receiver proposes to reduce the listing price on the Real Property, the Receiver shall inform the parties, the City of Stamford, and the Bank and, within three business days of being so informed, any of the foregoing parties (including the City of Stamford and Bank) that objects to the Receiver's proposed initial listing price or reduction may file an objection to the proposed reduction, which must include a demonstration of why the Court should not defer to the Receiver's business



judgment. Any nonobjecting party (including the City of Stamford and the Bank) may then file a response to the objection within three business days. The Court will then determine whether to approve of the listing price (or reduction) and may do so without a hearing.

10. The Receiver is required to submit progress reports to the Court, the parties, the City of Stamford, and the Bank every ninety (90) days from the date of this Order until the Receiver is discharged after consummation of an approved sale.

11. The Receiver's sole source of compensation shall be from the proceeds of the sale of the Real Property described above in an amount not to exceed a percentage of the gross sale proceeds to be submitted for the Court's approval as part of the Government's forthcoming motion for approval of a Receiver and to be split with the buyer's agent. If the Receiver or any other agent of the Receiver's company is also the buyer's agent, then the Receiver's commission shall be limited to a percentage of the gross sale proceeds to be submitted for the Court's approval as part of the Government's forthcoming motion for approval of a Receiver. The Receiver may also be reimbursed for his reasonable and necessary expenditures to protect and preserve the value of the Real Property that were first approved by the United States, the City of Stamford, and the Bank in writing.

12. In the event the Bank advances funds pursuant to the terms of the loan documents (the "Advances") to the Receiver during the pendency of the receivership to enable the Receiver to perform its duties hereunder, such Advances shall be considered part of the indebtedness secured by the lien of the mortgage in favor of the Bank and subject to the same senior priority. Nothing contained herein shall obligate the Bank to make any such Advances.

13. Mr. Morgan and the Entities shall provide to the Receiver for inspection and copying any and all documents (paper or electronic) relating to the Real Property or its

management that the Receiver may request as potentially useful to the Receiver in managing the Partnership and/or selling the Real Property, including but not limited to any financial records of the Partnership, utility payment history, legal records regarding any applications to any government agency with respect to the use of the Real Property and the disposition thereof, any surveys, any appraisals, and any warranties of any fixtures, repairs, or major appliances.

14. The Receiver shall have no personal liability to Caritas, Morgan 2000, or Mr. Morgan or to any of their creditors except if the Receiver has acted outside the scope of the receivership authority, or committed fraud or acted with gross negligence. No suit or other claim or complaint of any kind shall be lodged against the Receiver in any other court or with any other governmental, quasi-governmental, regulatory, or licensing authority without prior approval of this Court on motion for leave to lodge such a complaint.

15. Counsel for the United States, the City of Stamford, and the Bank do not represent the Receiver but the Receiver may consult with counsel for the United States, the City of Stamford, and the Bank regarding the Receiver's responsibilities. The Receiver is not authorized or expected to need to retain counsel but may apply to the Court for authority to do so should it appear to the Receiver that there is some particular reason to do so. Counsel for the United States, the City of Stamford, and the Bank may assist the Receiver in editing any purchase agreement proposed by or for any prospective purchaser (with any purchase agreement providing that it is subject to Court approval after execution), and any proposed purchase agreement shall be provided to Counsel for the United States, the City of Stamford, and the Bank at least 72 hours before execution.

16. At a sale closing, the purchase price may be partly used to pay closing costs customarily borne by sellers, as well as all real property taxes allocable to the period prior to

closing. Estimated closing costs should be indicated in any motion for approval of a purchase contract.

17. In the event that, subsequent to the entry of a future order approving the designation of the Receiver, Mr. Morgan secures an *unconditional* loan commitment for a loan that will fully satisfy the liens of the City of Stamford, the Bank, and the United States, he may file a motion to approve the refinance transaction in lieu of the sale contemplated hereunder; *provided however*, that the Receiver shall be entitled to be reimbursed for any approved expenditures made for the improvement or maintenance of the Real Property advanced by the Receiver plus a “break-up” fee equal to \$5,000 if the motion to approve the refinance transaction is filed within 21 days of the entry of a future order approving the designation of the Receiver or \$10,000 if the motion is filed thereafter (with any such “break-up” fee to be paid by Mr. Morgan), and the refinance transaction shall not be approved unless the Receiver is so reimbursed and the fee paid at or prior to the closing on the refinance transaction.

18. The entry of this Order shall not in any manner preclude any consensual resolution that may be reached between the Bank, the City of Stamford, the United States, and the Partnership, and the Receiver shall abide by the terms of any such consensual resolution.

19. If circumstances warrant it, any party to this action or the Bank or City of Stamford may move to modify this Order for cause.

It is so ordered.

Dated at New Haven this 5th day of August 2021.

/s/ Jeffrey Alker Meyer  
Jeffrey Alker Meyer  
United States District Judge